

REMARKS

Claims 1-7 and 10-16 remain pending in this application. Claims 1 and 10 are amended. Claims 8, 9, 17 and 18 were previously cancelled. Claims 2-4, 6, 11-15 were previously presented. Claims 5, 7 and 16 remain unchanged.

35 U.S.C. §103

Claims 1-4 and 10-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Payton (US Pat. No. 5,790,935) in view of Russo (US Pat. No. 6,025,868).

Claim 1 is amended to recite, inter alia, a “method for providing a program to a client, the method comprising the steps of...receiving a request for a pay per view program from the client...determining if the requested program already resides on a local storage device...retrieving the requested program from the local storage device if the requested program resides thereon...transmitting the retrieved program to the client for display...downloading the requested program from a PPV service provider if the requested program does not reside on the local storage device...transmitting the downloaded program to the client for display and to the storage device for storage... offering at least one of a pause, rewind and fast forward personal video recording service to a client for programs stored in the local storage device... and charging the client a fee for each of the pause, rewind and fast forward personal video recording services requested.” Claim 1 is amended for clarity purposes. More specifically, claim 1 is amended to recite, inter alia, “method for providing a program to a client, the method comprising the steps of... offering at least one of a pause, rewind and fast forward personal video recording service to a client for programs stored in the local storage device... and charging the client a fee for each of the pause, rewind and fast forward personal video recording services requested.” (Emphasis added).

The office action states that Payton does not teach “offering personal video recording services including at least one of pause, rewind, fast forward and random access to a client for programs stored in the local storage device...and charging the client a fee for each personal video recording service requested.” Applicants further propose that Payton does not recite the “offering at least one of a pause, rewind and fast

forward personal video recording service to a client for programs stored in the local storage device... and charging the client a fee for each of the pause, rewind and fast forward personal video recording services requested” element now recited by amended claim 1.

Applicants further propose that Russo, like Payton, also does not teach or suggest the “offering at least one of a pause, rewind and fast forward personal video recording service to a client for programs stored in the local storage device... and charging the client a fee for each of the pause, rewind and fast forward personal video recording services requested” element of amended claim 1. Russo, in Abstract and at column 3, lines 9-16, merely teaches allowing a subscriber to record program material in a storage device and billing a subscriber “only when, and if, the subscriber chooses to select a program for replay or actually enjoys the program substantially in its entirety.” (Emphasis added). Furthermore, Russo, at column 6, lines 6-15, additionally teaches offering VCR-like controls such as pause, rewind and fast forward “free of charge” (emphasis added). As a result Russo, similar to Payton, doesn’t appear to teach the “offering at least one of a pause, rewind and fast forward personal video recording service to a client for programs stored in the local storage device... and charging the client a fee for each of the pause, rewind and fast forward personal video recording services requested” element of amended claim 1. Indeed, Russo actually appears to teach away from the claimed element by teaching only charging for a program that is substantially viewed and by not charging for the use of pause, rewind and fast forward functions during the viewing of a program. As a result neither Payton nor Russo, either alone or combined, teach the “offering at least one of a pause, rewind and fast forward personal video recording service to a client for programs stored in the local storage device... and charging the client a fee for each of the pause, rewind and fast forward personal video recording services requested” element of amended claim 1. Accordingly, it is respectfully proposed that the rejection of amended claim 1 under 35 U.S.C. § 103(a) is overcome in accordance with the above amendment and remarks and notice to that effect is earnestly solicited.

Dependent claims 3-4 depend from amended claim 1 and should therefore also be allowable for the same reasons, as well as for the additional recitation contained

therein. Applicants respectfully request reconsideration of the rejection of the claim in view of the above amendments and remarks.

Independent claim 10 is amended to include elements similar to the elements of amended independent claim 1 and should therefore be allowable for the same reasons discussed above as well as for the additional recitations contained therein. Applicants respectfully request reconsideration of the rejection of the claim in view of the above remarks.

Dependent claims 11-13 depend from amended claim 10 and should therefore also be allowable for the same reasons, as well as for the additional recitation contained therein. Applicants respectfully request reconsideration of the rejection of the claim in view of the above amendments and remarks.

Dependent claims 5-7 and 14-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Payton (US Pat. No. 5,790,935) in view of Russo (US Pat. No. 6,025,868) in further view of Sedlak et al. (US PG Pub. No. 2002/0108117). Claims 5-7 being dependent on and further limiting amended independent claim 1, should be allowable for that reason, as well as for the additional recitations contained therein. Claim 14-16 being dependent on and further limiting amended independent claim 10, should be allowable for that reason, as well as for the additional recitations contained therein. Applicants respectfully request reconsideration of the rejection of the claims in view of the above remarks.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (317) 587-4027, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due other than the fees discussed above. However, if an additional fee is due, please charge the additional fee to Deposit Account 07-0832.

Respectfully submitted,
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